

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Flanagin**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND THE ARKANSAS CODE TO ABOLISH THE
9 LEGISLATIVE COUNCIL; TO CREATE THE LEGISLATIVE
10 COORDINATING COUNCIL; TO ASSIGN FUNCTIONS AND DUTIES
11 HERETOFORE PERFORMED BY THE LEGISLATIVE COUNCIL TO THE
12 LEGISLATIVE COORDINATING COUNCIL AND TO THE JOINT BUDGET
13 COMMITTEE AND THE RESPECTIVE JOINT INTERIM COMMITTEES; AND
14 FOR OTHER PURPOSES."

Subtitle

16
17 "TO ABOLISH THE LEGISLATIVE COUNCIL AND REASSIGN ITS
18 FUNCTIONS; AND TO CREATE THE LEGISLATIVE COORDINATING
19 COUNCIL AND PRESCRIBE ITS FUNCTIONS."

20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. For the purposes of this act:

24 (a) "Joint interim committee" means the joint interim committees of the
25 General Assembly as established by Arkansas Code 10-3-203(3) (A) and 10-3-701
26 and other joint committees created by law and authorized to meet during the
27 interim between sessions and/or during sessions.

28 (b) "Regulation" means rules, regulations, or any written form of
29 policy directive issued by a state agency.

30 (c) "State agency" means any officer, office, board, commission,
31 department, council, bureau, institution or other agency of the state of
32 Arkansas having authority by law to promulgate rules and regulations.

33
34 SECTION 2. The Arkansas Legislative Council is hereby abolished.

35

1 SECTION 3. (a) There is hereby created the Legislative Coordinating
2 Council to be composed of eight members of the General Assembly, four members
3 of the Senate and four members of the House of Representatives selected as
4 follows:

5 At some time during each regular biennial session of the General
6 Assembly, the members of the Senate residing in each of the four congressional
7 districts as they existed on January 1, 1993, shall caucus and select one of
8 their number to serve on the Council, and the members of the House residing in
9 each such congressional district shall caucus and select one of their number
10 to serve on the Council. At the time the Council members are selected, each
11 of the respective House and Senate congressional district caucuses shall
12 select a first and second alternate for the member selected by the caucus.
13 Members and alternates so selected shall serve during the interim between the
14 session at which selected and the next following regular biennial session.

15 (b) The Legislative Coordinating Council shall: (1) refer study
16 proposals to the appropriate joint interim committee and shall not itself
17 conduct studies nor appoint subcommittees to conduct studies; (2) be
18 responsible for the staffing and operation of the Bureau of Legislative
19 Research; and (3) refer to the appropriate joint interim committees any duties
20 formerly performed by the Legislative Council which were not transferred by
21 this act. Such matters shall be referred to the respective joint interim
22 committees based on the jurisdictional authority of the respective committees
23 as prescribed in Sections 4 through 13 of this act.

24

25 SECTION 4. The Joint Interim Committee on Aging and Legislative Affairs
26 has jurisdiction over the following: Office on Aging - Department of Human
27 Services.

28

29 SECTION 5. The Joint Interim Committee on Agriculture and Economic
30 Development has oversight jurisdiction over the following: Soil and Water
31 Resources Commission, Livestock and Poultry Commission, State Plant Board,
32 Bureau of Standards, Department of Parks and Tourism and Board, Department of
33 Arkansas Heritage and Boards, Forestry Commission, Geology Commission, Oil and
34 Gas Commission, Board of Registration for Foresters, Department of Arkansas
35 Industrial Development and Commission, Game and Fish Commission.

1

2 SECTION 6. The Joint Interim Committee on Education has oversight
3 jurisdiction over the following: Boards and Department of Education, Board
4 and Department of Vocational-Technical Education, Student Loan Authority,
5 Student Loan Guarantee Program, State Board of Higher Education, Department of
6 Higher Education, all vocational-technical schools, all community colleges,
7 all institutions of higher education, Post-Secondary Education Planning
8 Commission.

9

10 SECTION 7. The Joint Interim Committee on Insurance and Commerce has
11 oversight jurisdiction over the following: Public Service Commission -
12 Utilities Division, Savings and Loan Association Board, State Bank Department
13 and Board, State Insurance Department, State Securities Department, Savings
14 and Loan Board, Burial Association Board, State Employees Insurance Advisory
15 Committee.

16

17 SECTION 8. The Joint Interim Committee on Judiciary has oversight
18 jurisdiction over the following: Department of Correction and Board of
19 Correction, Judicial Department, Justice Building Commission, Prosecutor
20 Coordinator Commission.

21

22 SECTION 9. The Joint Interim Committee on Public Health, Welfare and
23 Labor has oversight jurisdiction over the following: Department of Labor and
24 Employment Security Division and Boards, Liquified Petroleum Gas Board,
25 Department of Health and Boards, Spinal Cord Commission, Department of
26 Pollution Control and Ecology and Boards, Statewide Health Coordinating
27 Council, Child Care Facility Review Board, Department of Human Services and
28 Boards except Office on Aging, Commission on Community Based Rehabilitation,
29 Disability Determination - Social Security Administration, Board of
30 Sanitarians, Psychology Examiners Board, Podiatry Board, Wastewater Plant
31 Operator's Licensing Committee, State Health Planning and Development,
32 Veterinary Medical Examining Board, Embalmers and Funeral Directors, Dental
33 Examiners, Chiropractic Examiners, Pharmacy Board, Optometry Board, Inhalation
34 Therapy Examination Board, Hearing Aid Dispensers Board, Coal Mine Examiners
35 Board, Cemetery Board, State Medical Board, Board of Physical Therapy, Therapy

1 Technology Board, Radiation Control Agency, Speech Pathology and Audiology,
2 Cosmetology Board, Social Work Registration Board, Barber Examiners Board,
3 Nursing Board, Rural Medical Practice Student Loan, Water Well Construction.

4

5 SECTION 10. The Joint Interim Committee on Public Retirement and Social
6 Security Programs has oversight jurisdiction over the following: Highway
7 Retirement System, Teacher Retirement System, State Police Retirement System,
8 Judicial Retirement System, Quasi-Judicial Retirement System, Public Employees
9 Retirement System.

10

11 SECTION 11. The Joint Interim Committee on Public Transportation has
12 oversight jurisdiction over the following: Transportation Commission,
13 Arkansas Highway and Transportation Department, Waterways Commission, Motor
14 Vehicle Commission.

15

16 SECTION 12. The Joint Interim Committee on Revenue and Taxation has
17 oversight jurisdiction over the following: Racing Commission and Racing
18 Division of Department of Finance and Administration, Revenue Services
19 Division of Department of Finance and Administration, Tax Division-Public
20 Service Commission, Assessment Coordination-Public Service Commission.

21

22 SECTION 13. The Joint Interim Committee on State Agencies and
23 Governmental Affairs has oversight jurisdiction over the following: Alcoholic
24 Beverage Control Department and Board, Department of Veterans Affairs, State
25 Building Services, War Memorial Stadium Commission, State Capitol Grounds
26 Commission, Capitol Zoning-District Commission, Claims Commission, Governor's
27 Mansion Commission, Commission on Law Enforcement Standards, Department of
28 Finance and Administration-Management Services, Arkansas Crime Commission,
29 Board of Finance, Department of Computer Services, State Police Department,
30 State Military Department, Private Investigators and Private Security
31 Agencies, Aeronautics Department, Public Accountancy Board, Revenue Department
32 Building Commission, Soybean Promotion Board, Adjutant General, Civil Air
33 Patrol, Office of Emergency Services, Veteran's Child Welfare Service Office,
34 Air National Guard, Professional Engineers and Land Surveyors, Police
35 Commission, Professional Soil Classifiers, Contractors Licensing Board,

1 Collection Agencies, Consumers Advisory Board, Architects, Abstractors Board
2 of Examiners, Real Estate Commission, Athletic Commission, Election
3 Commissioners Board, Mobile Home Commission.

4

5 SECTION 14. Any regulation promulgated by a state agency which is not
6 listed above shall be reviewed by the Joint Interim Committee on State
7 Agencies and Governmental Affairs until such time as the Legislative
8 Coordinating Council determines the most appropriate joint interim committee
9 to review the rules and regulations of that agency. Provided, the Legislative
10 Coordinating Council shall not refer any rule and regulation for review by the
11 Legislative Coordinating Council or a subcommittee of the Council.

12

13 SECTION 15. At least thirty (30) days before any state agency may
14 promulgate any regulation, or revise, amend or change a rule or regulation
15 then in effect, the state agency shall file with the appropriate joint interim
16 committee by mailing or delivering a copy thereof to the Bureau of Legislative
17 Research for review and referral to the committee at its next regular or
18 special meeting. The Bureau of Legislative Research shall assign the proposed
19 regulation or the revision, amendment or change in any existing regulation, to
20 an appropriate staff person for review prior to the next regular meeting of
21 the joint interim committee to which the rule was referred. Such review by
22 the Bureau of Legislative Research shall be for the purpose of:

23 (1) determining whether the regulation is contrary to legislative
24 intent as stated in the law under which the regulation has been promulgated or
25 is purported to have been promulgated; and

26 (2) determining whether such proposed regulation exceeds the authority
27 granted to the state agency under its regulation making power.

28 The written findings and comments of the Bureau of Legislative Research
29 shall be submitted to the joint interim committee to which the proposed
30 regulation is referred at the time the regulation is considered by the
31 committee.

32

33 SECTION 16. (A) At the next regular or special meeting of a joint
34 interim committee, all proposed regulations filed with the Bureau of
35 Legislative Research for referral to the committee received subsequent to the

1 last meeting of the committee or designated subcommittee thereof, shall be
2 placed on the agenda for the meeting of the joint interim committee, together
3 with staff report and comments in regard to each proposed rule or regulation,
4 for review and consideration by the joint interim committee.

5 (B) Notice that the regulation is being placed on the meeting agenda of
6 the joint interim committee may be furnished to the various state agencies
7 involved upon direction of the co-chairmen of the joint interim committee in
8 order that the agency may be represented at the committee meeting to explain
9 the proposed regulation, and to answer questions in regard thereto if raised
10 by the committee.

11 (C) Upon conclusion of the committee's consideration of a proposed
12 regulation, the committee or designated subcommittee thereof shall notify the
13 state agency that it has completed its review of the regulation.

14 (D) The purpose of this section is to enable the joint interim
15 committees of the General Assembly and the state agencies to jointly discuss
16 the purposes and reasons for changes in regulations being promulgated by the
17 agencies, in order to enable the committees to perform a legislative oversight
18 function of keeping the General Assembly informed with respect to abuse or
19 misuse of state agency regulation making power in those instances where the
20 committees believe the state agencies have exceeded the authority granted to
21 the agencies by law or have exceeded the legislative intent as expressed in
22 the law. In addition, this section intends to enable the state agencies to be
23 aware of the recommendations and comments of the joint interim committees
24 during the course of efforts to promulgate and adopt regulations or amendments
25 to existing regulations.

26 It is not the intent of this section that the procedures set forth in
27 this act shall be a limitation or an undue hindrance to the exercise by each
28 state agency of its regulation making power and authority. In the event a
29 joint interim committee determines that an agency is exceeding its legal
30 authority or legislative intent as expressed in existing law, the committee
31 shall convey such information, together with recommendations for changes, to
32 the General Assembly in the manner set forth in Section 17 of this act for
33 action at the next regular session of the General Assembly.

34

35 SECTION 17. Each joint interim committee shall submit a report to the

1 next regular session of the General Assembly in the event the joint interim
2 committee recommends legislation to (i) clarify legislative intent with
3 respect to the regulation making power or authority of the agency, (ii) for
4 the purpose of clarifying, modifying, or restricting the regulation making
5 authority of the state agency, or (iii) to repeal the regulation making power
6 or authority of the agency or commission if the committee believes the same is
7 being abused or is contrary to the public interest.

8

9 SECTION 18. Whenever a state agency finalizes the promulgation of a
10 regulation or a revision, amendment or change in a regulation, a copy thereof
11 shall be filed with the Bureau of Legislative Research if the regulation
12 contains any changes from the initial filing of the regulation.

13

14 SECTION 19. All powers, functions and duties heretofore vested in or
15 exercised by the Review Subcommittee of the Legislative Council or by the
16 Legislative Council after receiving recommendations of the Review
17 Subcommittee, are vested in and shall hereafter be exercised by the
18 appropriate joint interim committees.

19

20 SECTION 20. (a) All matters required to be submitted by the various
21 state agencies to the Review Subcommittee of the Legislative Council or
22 required to be submitted to the Legislative Council and which have in the past
23 been referred to the Review Subcommittee for review shall hereafter be
24 submitted to the Bureau of Legislative Research for review by the appropriate
25 joint interim committee at the same time and in the same manner as such
26 matters were heretofore submitted to the Legislative Council or the
27 subcommittee of the Council.

28 (b) The Bureau staff shall review and prepare a description of all such
29 matters filed by the state agencies as received and shall weekly mail to
30 members of each of the respective joint interim committees a description and
31 staff comments regarding each such matter which is within the jurisdiction of
32 the respective committees.

33 At any time not less than forty-eight hours before the date and time set
34 for the next meeting of the respective joint interim committees, any member of
35 the committee may request staff to include any such matter on the agenda for

1 the committee meeting.

2 Immediately upon receipt of a member request that a matter be included
3 on the agenda for a joint interim committee meeting, the staff shall notify
4 the state agency involved that such request has been made and shall advise the
5 agency of the date, time and place of the meeting at which the matter will be
6 reviewed. It shall be presumed that review is completed on matters not
7 included on the agenda.

8 (c) Any state agency which is not listed in this act, shall file such
9 matters with the Bureau for review by the Joint Interim Committee on State
10 Agencies and Governmental Affairs until such time as the Legislative
11 Coordinating Council shall determine the appropriate joint interim committee
12 to review such matters. The Legislative Coordinating Council shall not refer
13 any such matters to the Legislative Coordinating Council or to a subcommittee
14 of the Legislative Coordinating Council for review.

15 (d) Upon conclusion of the committee's consideration of any matter, the
16 committee shall notify the state agency that it has completed its review.

17

18 SECTION 21. All powers, functions and duties heretofore vested in or
19 exercised by the Performance Evaluation and Expenditure Review Subcommittee of
20 the Legislative Council or by the Legislative Council after receiving
21 recommendations of the Performance Evaluation and Expenditure Review
22 Subcommittee, are vested in and shall hereafter be exercised by the
23 appropriate joint interim committees.

24

25 SECTION 22. (a) All matters required to be submitted by the various
26 state agencies to the Performance Evaluation and Expenditure Review
27 Subcommittee of the Legislative Council or required to be submitted to the
28 Legislative Council and which have in the past been referred to the
29 Performance Evaluation and Expenditure Review Subcommittee for review shall
30 hereafter be submitted to the joint interim committees. Such matters shall be
31 submitted to the appropriate joint interim committees as provided herein at
32 the same time and in the same manner as such matters were heretofore submitted
33 to the Legislative Council or the subcommittee of the Council.

34 (b) All matters required to be submitted by any state agency, which
35 agency is not listed above, shall be submitted to the Joint Interim Committee

1 on State Agencies and Governmental Affairs for its review until such time as
2 the Legislative Coordinating Council determines the appropriate joint interim
3 committee to review matters submitted by that agency. The Legislative
4 Coordinating Council shall not refer such matters to the Legislative
5 Coordinating Council or to a subcommittee of the Council for review.

6 (c) At the next regular or special meeting of a joint interim
7 committee, all such matters referred to the committee subsequent to the last
8 meeting of the committee or designated subcommittee thereof, shall be placed
9 on the agenda for the meeting of such joint interim committee, together with
10 any staff report and comments in regard thereto.

11 (d) Notice that such item is being placed on the meeting agenda of the
12 joint interim committee may be furnished to the various state agencies
13 involved upon direction of the co-chairmen of the joint interim committee in
14 order that the respective agencies may be represented at the committee meeting
15 to explain the matter, and to answer questions in regard thereto.

16 (e) Upon conclusion of the committee's consideration of any matter,
17 the committee or designated subcommittee thereof shall notify the state agency
18 that it has completed its review.

19

20 SECTION 23. Whenever the General Assembly is meeting in regular or
21 special session, the House and Senate standing committees may meet jointly at
22 a time agreed upon by both chairmen to review matters referred to the joint
23 interim committees under this act since convening of the session or pending at
24 the time the session was convened.

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26 SECTION 24. The joint interim committees of the General Assembly are
27 hereby authorized to adopt appropriate procedures and practices including
28 utilization of subcommittees to enable the committees to carry out their
29 responsibilities under the provisions of this act. The House and Senate
30 members of the joint interim committees are authorized to meet jointly or
31 separately.

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33 SECTION 25. All powers, functions and duties heretofore vested in or
34 exercised by the Charitable, Penal and Correctional Institutions Subcommittee
35 of the Legislative Council or by the Legislative Council after receiving

1 recommendations of the Charitable, Penal and Correctional Institutions
2 Subcommittee are hereby vested in and shall hereafter be exercised by the
3 appropriate joint interim committees.

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5 SECTION 26. (a) All matters required to be submitted by the various
6 state agencies to the Charitable, Penal and Correctional Institutions
7 Subcommittee of the Legislative Council or required to be submitted to the
8 Legislative Council and which have in the past been referred to the
9 Charitable, Penal and Correctional Institutions Subcommittee for
10 recommendations shall hereafter be submitted to the Legislative Coordinating
11 Council for referral to the appropriate joint interim committees as provided
12 herein. State agencies shall file such matters with the Legislative
13 Coordinating Council at the same time and in the same manner as such matters
14 were heretofore filed with the Legislative Council or the subcommittee of the
15 Council. The Legislative Coordinating Council shall not refer such matters to
16 the Legislative Coordinating Council or a subcommittee of the Council.

17 (b) At the next regular or special meeting of a joint interim
18 committee, all such matters referred to the committee subsequent to the last
19 meeting of the committee or designated subcommittee thereof, shall be placed
20 on the agenda for the meeting of the joint interim committee, together with
21 any staff report for consideration by the joint interim committee.

22 (c) Notice that such item is being placed on the meeting agenda of the
23 joint interim committee may be furnished to the various state agencies
24 involved upon direction of the co-chairmen of the joint interim committee in
25 order that the respective agencies may be represented at the committee meeting
26 to explain the matter and to answer questions in regard thereto.

27 (d) Upon conclusion of the committee's consideration of any such
28 matter, the committee shall notify the state agency that it has completed its
29 consideration of the matter.

30

31 SECTION 27. All provisions of this act of a general and permanent
32 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
33 Code Revision Commission shall incorporate the same in the Code.

34

35 SECTION 28. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

5

6 SECTION 29. Arkansas Code 10-3-309 and Arkansas Code 10-3-503 through
7 506 and all laws and parts of laws in conflict with this act are hereby
8 repealed.

9